



GSTA TPP 002 - Goods and services tax: What are the registration requirements for resident agents acting for non-residents?

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 This document has changed over time. This is a consolidated version of the ruling which was published on *14 June 2005*



Goods and Services Tax Advice (Withdrawn 23 June 2005)

Goods and services tax: What are the registration requirements for resident agents acting for non-residents?

Preamble

*This document is a ruling for the purposes of section 37 of the Taxation Administration Act 1953. It illustrates the principles contained in **Goods and Services Tax Ruling GSTR 2000/37 on agency**. You can rely on the information presented in this document, which provides advice on the operation of the GST system.*

Answer

In the situation where:

- the annual turnover of a resident agent in its own right is less than \$50,000, and
- the annual turnover of a non-resident is less than \$50,000

neither the resident agent nor the non-resident is required to be registered for GST. If neither chooses to register, supplies, acquisitions and importations they make are not taxable or creditable under the *A New Tax System (Goods and Services Tax) Act 1999* (GST Act).

Where:

- the annual turnover of a resident agent in their own right is \$50, 000 or more, and
- the annual turnover of a non-resident is less than \$50,000

the resident agent is required to be registered for GST in its own right under section 23-5 of the GST Act. Furthermore, the non-resident is not required to be registered under section 23-5 of the GST Act (although it may choose to register under section 23-10 of the GST Act).

In this situation, the resident agent registers in its own right and accounts for GST in relation to supplies, importations, and acquisitions that it alone makes. However, supplies, acquisitions, and importations made by the non-resident through the resident agent are not taxable or creditable under section 9-5, 11-5, or 15-5 of the GST Act, as the non-resident is not registered or required to be registered for GST.

On the other hand, if the non-resident chooses to register under section 23-10 of the GST Act, then the resident agent is liable for taxable supplies and taxable importations the non-resident makes through the resident agent. Similarly, the resident agent is entitled to input tax credits on creditable acquisitions and creditable importations the non-resident makes through the resident agent.

Where:

- the annual turnover of a resident agent in its own right is more than \$50,000, and
- the annual turnover of a non-resident reaches \$50,000 (excluding Division 83 supplies)

the non-resident is required to be registered under section 23-5 of the GST Act, and the resident agent is required to be registered under both section 23-5 and 57-20 of the GST Act

In this situation, the resident agent is liable for GST and entitled to input tax credits for taxable supplies, taxable importations, creditable acquisitions and creditable importations it makes in its own right. Further, the resident agent is liable for GST and entitled to input tax credits for taxable supplies and taxable importations, and creditable acquisitions and creditable importations the non-resident makes through the resident agent (in the resident's capacity as resident agent).

Where:

- the annual turnover of the resident agent in its own right is less than \$50,000, and
- the annual turnover of a non-resident reaches \$50,000 (excluding Div 83 supplies)

the non-resident is required to be registered for GST under section 23-5 of the GST Act, and the resident agent is required to be registered for GST under section 57-20 of the GST Act.

In this situation, the resident agent is liable for GST and entitled to input tax credits for taxable supplies, taxable importations, creditable acquisitions and creditable importations it makes in its own right. Further, the resident agent is liable for GST and entitled to input tax credits for taxable supplies and

taxable importations, and creditable acquisitions and creditable importations the non-resident makes through the resident agent (in the resident's capacity as resident agent).

The appendix below contains a table summarising these registration requirements.

Background

A resident agent acts for a non-resident. Both the resident agent and the non-resident are carrying on an enterprise.

Legislative references:

ANTS(GST)A 1999 9-5
ANTS(GST)A 1999 11-5
ANTS(GST)A 1999 15-5
ANTS(GST)A 1999 23-5
ANTS(GST)A 1999 23-10
ANTS(GST)A 1999 57-20
TAA 1953 37

ATO references

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Application of this GST Advice

This Advice is based on GSTR2000/37. It explains our view of the law as it applied from 1 July 2000. You can rely on this Advice on and from its date of issue for the purposes of section 37 of the *Taxation Administration Act 1953*. Goods and Services Tax Ruling GSTR 1999/1 explains the GST rulings system and our view of when you can rely on our interpretation of the law in GST public and private rulings.

If this Advice conflicts with a previous private ruling that you have obtained, this public ruling prevails. However, if you have relied on a private ruling, you are protected in respect of what you have done up to the date of issue of this public ruling. This means that if you have underpaid an amount of GST, you are not liable for the shortfall prior to the date of issue of this later ruling. Similarly, you are not liable to repay an amount overpaid by the Commissioner as a refund.

Commissioner of Taxation

Date

Related Rulings/Determinations/GST Advice:

GSTR 2003/15

Subject references:

resident agent
acquisitions by agents
importations by agents
supplies by agents
input tax credits
creditable acquisitions
creditable importations
taxable supplies
taxable importations
registration
required to be registered



Appendix

| | Resident entity | Non-resident Principal* | GST implications |
|----|---|--|--|
| 1) | Turnover in own right (GST-free and taxable) \$50, 000 plus Required to be registered (section 23-5 of the GST Act) | Turnover (GST-free and taxable) Less than \$50 000 (after excluding supplies subject to Division 83) Not required to be registered (section 23-5 of the GST Act) May choose to be registered (section 23-10 of the GST Act) | Resident must register and account only on the supplies that it makes. Resident agent not entitled to input tax credits (ITCs) for acquisitions made on behalf of the principal (subsection 11-15(1) of the GST Act) If non-resident chooses to register, resident agent must register and account for GST on all supplies. (section 57-20 of the GST Act) |
| 2) | Turnover in own right less than \$50 000 Not required to be registered (section 23-5 of the GST Act) May choose to be registered (section 23-10 of the GST Act) | Turnover less than \$50 000 (after excluding supplies subject to Division 83) Not required to be registered (section 23-5 of the GST Act) | No registration required (section 23-5 of the GST Act). No GST to be accounted for. No entitlement to ITC's. If resident chooses to register, resident agent must account for GST only on supplies it makes. |
| 3) | Once the turnover of the non-resident principal meets or exceeds the turnover threshold, the resident entity is required to be registered. The resident entity's turnover is irrelevant. Resident agent required to be registered (section 57-20 of the GST Act) | Turnover \$50 000 plus (after excluding supplies subject to Division 83) Required to be registered (section 23-5 of the GST Act) | Resident agent must register (section 57-20 of the GST Act) and account for GST on all supplies. |